IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY FIFTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

and
THE HON'BLE MR JUSTICE P.S.NARAYANA

WRIT PETITION No: 21560 of 2001

Between:

The Zilla Parishad,

Rep., by its Chief Executive Officer,

Mahabubnagar District.

..... PETITIONER

AND

1. Narsappa, S/o and age not known,

Part Time Sweeper, P.S. Antharam,

Doulthabad Mandal,

Mahabubnagar District.

2. The Government of A.P., Rep., by its Secretary,

Finance and Planning Department,

Secretariat Buildings, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an order or direction more particularly one in the nature of writ of Mandamus

call for the records relating to the O.A.No.6604 of 2000, dt.6.2.2001 on the file of the Hon'ble A.P. Administrative Tribunal at Hyderabad and set aside the same as illegal, arbitrary and violative of the principles of natural justice.

Counsel for the Petitioner: MR.P.RAGHAVENDRA REDDY (SC for Zilla Parishad)

Counsel for the Respondent No.1: MR.M.ASHOK KUMAR

Counsel for the Respondent No.2: GP for Finance and Planning.

The Court made the following:

ORAL ORDER:- (PER GB,J.)

The Writ Petition is filed by the Zilla Parishad, Mahaboobnagar District, assailing the order, dated 06.02.2001, passed by the A.P. Administrative Tribunal, Hyderabad, in O.A.No.6604 of 2000.

2. The learned Tribunal in batch of O.As. disposed of the O.As. with the following directions in consonance with the order, dated 23.02.2001, passed in O.A.No.6932 of 1999 and batch.

> "Following the judgment in O.A.No.6932 of 1999 and batch, dated 23.02.2001, this/these O.As. are also allowed with the following directions:-
>
> "Thus, we direct the respondent to regularize the services of all the applicants who fulfil the conditions incorporated in G.O.Ms.No.212, dated 22.04.1994 and G.O.Ms.No.112, dated 23.07.1997 irrespective of the fact whether they complete 5/10 years of service as on 25.11.1993 provided they were in service as on the said cut-off date of without insisting for existence of clear vacancy. To be more specific, we direct the respondents to consider the cases of all the applicants who were appointed prior to 25.11.1993 and who completed 5/10 years of service as full tome or part-time employees for regularization as and when they complete the said period of service. The above exercise shall be completed within a period of six months from the date of receipt of a copy of this order.
>
> We further direct the respondents to effect payment of salaries to the applicants in the pay scale attached to the post and pay arrears of salary

from this date (23.02.2001). The above exercise shall be completed within a period of thre months from the date of receipt of a copy of this order.

The O.As. are allowed with the above directions. No costs M.A., V.M.A., and C.As., stand disposed of".

3. Learned counsel for the Zilla Parishad now submits that the order of the Tribunal is illegal and contrary to law, that there are no regular vacancies, and therefore, the 1st respondent cannot be regularized in service.

4. This contention cannot be accepted inasmuch as the 1st respondent has been working from December, 1975. In such a situation, it cannot be said that there is no vacancy at all, and if there is no such regular vacancy, it is open for the petitioner to create a regular vacancy in view of the fact that the petitioner has been working for more than 25 years. Under those circumstances, we do not find any ground to interfere with the order of the Tribunal.

5. Accordingly, the Writ Petition is dismissed. No costs.

6. However, it is made clear that the respondent is also entitled for emoluments in the pay scale attached to the post from 23.02.2001 and the arrears arising there from shall be paid within a period of three months from the date of receipt of a copy of this order.

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G. BIKSHAPATHY, J

Date: 25.04.2005

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P.S. NARAYANA, J

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To

1. The Chief Executive Officer, Zilla Parishad,

Mahabubnagar District.

2. The Secretary, Government of A.P., Finance and Planning Department, Secretariat Buildings, Hyderabad.

3. 2 CCs to the G.P for Finance and Planning, High Court

Buildings, Hyderabad (OUT)

4. 2 CD copies

5. 1 CC to MR.ASHOK KUMAR